

APPEAL NO. 040158
FILED MARCH 1, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 7, 2004. With respect to the single issue before him, the hearing officer determined that the respondent's (claimant) compensable injury of _____, includes an injury to the cervical spine at C4-5. In its appeal, the carrier argues that the hearing officer's extent-of-injury determination is against the great weight of the evidence. In her response to the carrier's appeal, the claimant urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of _____, includes an injury to the cervical spine at C4-5. That issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was persuaded by the causation opinions from Dr. D and Dr. F and determined that those reports were sufficient to satisfy the burden of proving the causal connection between the claimant's 1991 compensable injury and the injury at C4-5. The hearing officer was acting within his province as the fact finder in giving more weight to the opinions from Drs. D and F rather than the conflicting opinion evidence offered by the carrier's peer review doctors. The factors emphasized by the carrier in challenging the extent-of-injury determination on appeal are the same factors it emphasized at the hearing. The significance, if any, of those factors was a matter for the hearing officer in resolving the issue before him. Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge